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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5126 of 2007
Date of decision: 16.10.2007

Gurcharan Kaur **...Petitioner**

Versus

Tilak Raj **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Parminder Singh, Advocate for the petitioner.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order dated August 17, 2007 passed by the learned Rent Controller, Jalandhar dismissing the application filed by the petitioner/landlord for appointment of Local Commissioner for recording her statement.

The prayer was made for appointment of Local Commissioner for the reason that petitioner/landlord being a patient was unable to walk.

Notice of the petition was issued. However, respondent refused to accept service. Accordingly, his service is deemed to be completed.

Heard learned counsel for the petitioner and perused the paper book.

It is submitted that petitioner is 70 years of age, who was earlier suffering from heart ailment and blood pressure, had now suffered fracture of her left femur for which she had undergone an operation. Accordingly, it is prayed that impugned order passed by learned Rent Controller may be set aside and Local Commissioner be appointed for examination of the petitioner.

After hearing learned counsel for the petitioner, I find merit in the contention raised. Order 26 Rule 4-A of the Code of Civil Procedure provides that nothwithstanding anything contained in these Rules, the Court may in the interest of justice or for the expeditious disposal of the case or

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for any other reason issue Commission in a suit for examination or interrogatories or otherwise of any person resident within the local limits of its jurisdiction, and the evidence so recorded shall be read in evidence. In the present case, it is not disputed that petitioner is living within the local limits of jurisdiction of the Court. The reasons for inability to appear in the Court is available. Even if she may be able to walk and appear in the Court for examination but that may take a long time keeping in view of her ailment.

Accordingly, while setting aside the impugned order passed by learned Rent Controller, the prayer made by the petitioner is accepted and it is directed that petitioner may be examined by issuing Commission for the purpose.

The revision petition is disposed of in the manner indicated above.

October 16, 2007 **(Rajesh Bindal)**
Pka **Judge**